



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 26 सितम्बर, 1981/5 आश्विन, 1903

हिमाचल प्रदेश सरकार

गृह विभाग

अधिसूचना

शिमला-4, 10 सितम्बर, 1981

नं० 11-6/67-गृह(ए)-II.—मैनोवरज फील्ड फायरिंग एवं आर्टिलरी प्रैक्टिस अधिनियम, 1938 (1938 का 5वां अधिनियम) की धारा 9 की उप-धारा (3) में प्रदत्त शक्तियों का प्रयोग करते हुए राज्यपाल, हिमाचल प्रदेश धारा 9 की उप-धारा (4) द्वारा अपेक्षित इसी अधिनियम की धारा 9 की उप-धारा (2) के अन्तर्गत अधिसूचना जारी करने के आशय की सूचना देते हुए फील्ड फायरिंग तथा आर्टिलरी अभ्यास को जिला ऊना के हिमाचल प्रदेश सरकार की सम संख्या अधिसूचना दिनांक 23 फरवरी, 1977 और 6 जुलाई, 1981 जो कि राजपत्र हिमाचल प्रदेश (असाधारण) के दिनांक 25 फरवरी, 1979 तथा दिनांक 25 जुलाई, 1981 के अंकों में प्रकाशित हुई थी द्वारा

पूर्व परिभाषित क्षेत्र में नीचे दिनांकित समय के लिये प्राधिकृत करने के निश्चय को सरकारी राजपत्र में उन असाधारण की सूचना हेतु जिन पर इस का प्रभाव पड़ेगा, सहर्ष प्रकाशित करते हैं:—

जुलाई, 81	अगस्त, 81	सितम्बर, 81	अक्तूबर, 81	दिसम्बर, 81
01 से 03	03 से 05	02 से 04	03	01 से 03
06 से 08	07 से 08	07 से 09	05 से 07	05
10 से 11	10 से 12	11 से 12	09 से 10	07 से 09
				11 से 12
13 से 15	14 से 15	14 से 16	12 से 14	14 से 16
17 से 18	17 से 19	18 से 19	16 से 17	18 से 19
20 से 22	21 से 22	21 से 23	19 से 21	21 से 23
24 से 25	24 से 26	25 से 26		26
27 से 29	28 से 29	28 से 30		28 से 30
31	31			

जनवरी, 82	फरवरी, 82	मार्च, 82	अप्रैल, 82	मई, 82	जून, 82
02	01 से 03	01 से 03	02 से 03	01	01 से 03
04 से 06	05 से 06	05 से 06	03 से 07	03 से 05	05
08 से 09	08 से 09	08 से 09	09 से 10	07 से 08	07 से 09
11 से 13	11 से 13	11	11	10 से 11	11 से 12
15 से 16	15 से 17			13 से 15	14 से 15
18 से 20				17 से 19	17 से 19
22 से 23				21 से 22	21 से 22
25				24 से 25	24 से 26
27 से 29				27 से 29	28 से 30

के० सी० पांडेय,
मुख्य सचिव।

परिवहन विभाग

अधिसूचना

शिमला, 10 सितम्बर, 1981

संख्या 22-5/70-टी० टी०-II.—इस विभाग के सम संख्यक अधिसूचना दिनांक 3-11-1978 का अतिक्रमण करते हुए तथा मोटर यान अधिनियम, 1939 (1939 का अधिनियम संख्या 4) की धारा 143 की उप-धारा (1) के खण्ड (1) के अधीन प्रदत्त तथा इस सम्बन्ध में उन्हें मणक्त करने वाली अन्य सभी शक्तियों का प्रयोग करते हुए राज्यपाल, हिमाचल

प्रदेश, हिमाचल प्रदेश में जीप, स्टेशन वैन, कैब (मिबाय मिनि बसों) की नियमित सेवा की यात्री भाड़े की दर को नियत करने के बारे में राज्य परिवहन प्राधिकरण हिमाचल प्रदेश को निम्नलिखित निर्देशों का प्रारूप जारी करने का प्रस्ताव करते हैं तथा उसे उक्त उप-धारा (1) के परन्तुक द्वारा अपेक्षानुसार उससे सम्भवतः प्रभावित होने वाले व्यक्तियों के सूचनार्थ राजपत्र हिमाचल प्रदेश में प्रकाशित किया जाता है। एतद्वारा सूचित किया जाता है कि उक्त प्रारूप पर इसके राजपत्र, हिमाचल प्रदेश में प्रकाशन के 30 दिन व्यतीत होने पर या उस के बाद विचार किया जायेगा।

2. उक्त निर्धारित अवधि से पूर्व किसी भी व्यक्ति से उक्त प्रारूप की वाबत अधोहस्ताक्षरी द्वारा प्राप्त किसी आक्षेप या सुझाव पर राज्य सरकार द्वारा राज्य परिवहन प्राधिकरण से परामर्श करके तथा प्रभावित हितवद्ध व्यक्तियों के प्रतिनिधियों को सुनवाई का अवसर देने के पश्चात् विचार किया जायेगा।

निर्देशों का प्रारूप

यतः राज्य सरकार का समाधान हो गया है कि प्रैटोल, टायर, ट्यूब चैसी, आदि के मूल्य में वृद्धि के कारण जीप, स्टेशन वैन, कैब की नियमित सेवा के यात्री भाड़े में पुनर्गणना आवश्यक हो गया है।

अतः अब राज्य सरकार यह निर्देश देती है कि राज्य परिवहन प्राधिकरण हिमाचल प्रदेश, हिमाचल प्रदेश में जीप, स्टेशन वैन, कैब (मिबाय मिनि बसों के) की नियमित सेवा का यात्री भाड़ा निम्नानुसार सुनिश्चित करेगा:

सड़कें

यात्री कर सहित प्रस्तावित दरें

हिमाचल प्रदेश की सभी पक्की तथा कच्ची सड़कें 46 पैसे प्रति किलोमीटर प्रति यात्री

कंवर जमशेर सिंह,

सचिव।

उद्यान विभाग

अधिसूचनाएं

शिमला-2, 9 सितम्बर, 1981

संख्या डी0एच0पी0पी0 2-16/79.—इस निदेशालय की अधिसूचना संख्या डी0एच0पी0पी0 2-16/79-4291 से 4338 दिनांक 27-1-81 का अधिलेखन करते हुए मैं हिमाचल प्रदेश कृषि कीट, व्याधि एवं हानिकारक खरपतवार अधिनियम, 1969 (अधिनियम संख्या 18, 1969) की धारा 3(1) की शक्तियों का प्रयोग करते हुए जोकि मूल हिमाचल प्रदेश सरकार की अधिसूचना संख्या 6-17/69-एग्र (सैंक्ट)-II, दिनांक 28 सितम्बर, 1976 के अन्तर्गत प्रदान की गई हैं, सर्वसाधारण की सूचनार्थ सेब के स्कैब रोग (वैन्चुरिया इन्क्वालिंस) को हिमाचल प्रदेश में सेब के पौधों के लिए घातक रोग घोषित करता हूँ। इसके अतिरिक्त इस अधिनियम की धारा (3) (iii)

के अन्तर्गत उपरोक्त रोग से ग्रसित पौधों के उचित रोग रोधक एवं उपचार के उपायों के अतिरिक्त उपरोक्त रोग से ग्रस्त पौधों को निम्नलिखित क्षेत्रों में नष्ट करने का भी निर्देश देता हूँ :

क्र०सं०	जिले का नाम	विकास खण्ड	ग्राम का नाम
1.	चम्बा	सलूनी	भांदल तथा किहार
2.	चम्बा	चम्बा	सरोल
3.	चम्बा	भरमौर	उलांसा
4.	कुल्लू	नगर	समस्त विकास खण्ड
5.	कुल्लू	कुल्लू	समस्त विकास खण्ड
6.	कुल्लू	बन्जार	समस्त विकास खण्ड
7.	मण्डी	सदर	नगवाई, टकोली तथा पनारसा
8.	मण्डी	सराज	जंजेहली तथा वाली चौकी
9.	शिमला	जुब्बल-कोटखाई	समस्त विकास खण्ड
10.	शिमला	रोहडू	समस्त विकास खण्ड

इस अधिसूचना के जारी होने पर उपरोक्त क्षेत्रों के प्रत्येक वागवान अधिसूचना में दिए गए रोग उन्मूलन हेतु हिमाचल कृषि कीट, व्याधि एवं हानिकारक खरपतवार अधिनियम, 1969 की धारा 4(1) के अन्तर्गत रोग रोधक उपचार करने के लिए बाध्य होगा। इस अधिनियम की धारा 3(ii) के अन्तर्गत यह अधिसूचना जारी होने के एक वर्ष तक वैध रहेगी।

शिमला-2, 9 सितम्बर, 1981

संख्या डी०एच०पी०पी० 2-16/79.—इस निदेशालय की अधिसूचना संख्या डी०एच०पी०पी० 2-16/79-4644 से 4682 दिनांक 10-3-81 का अधिलेखन करते हुए हिमाचल प्रदेश कृषि कीट, व्याधि एवं हानिकारक खरपतवार अधिनियम, 1969 (अधिनियम संख्या 18) की धारा 3 (iii) की शक्तियों का प्रयोग करते हुए जिसका कि मुझे हिमाचल प्रदेश सरकार की अधिसूचना संख्या 6-17/69-एग्र (सैक्ट)-2 दिनांक 28 सितम्बर, 1976 द्वारा अधिकार प्राप्त है, मैं सेब के पौधों तथा इससे सम्बन्धित सामग्री मिट्टी, खाद इत्यादि निम्नलिखित क्षेत्रों से किसी अन्य क्षेत्रों को ले जान पर इस अधिसूचना के जारी होने से एक वर्ष तक के लिए तुरन्त प्रतिबन्ध लगाता हूँ ताकि प्रदेश के किसी अन्य भाग में सेब का स्कैब रोग न फैल सके :

क्र०सं०	जिले का नाम	विकास खण्ड	ग्राम का नाम
1	2	3	4
1.	चम्बा	सलूनी	भांदल तथा किहार
2.	चम्बा	चम्बा	सरोल
3.	चम्बा	भरमौर	उलांसा
4.	कुल्लू	नगर	इस विकास खण्ड का समस्त क्षेत्र
5.	कुल्लू	कुल्लू	समस्त विकास खण्ड
6.	कुल्लू	बन्जार	समस्त विकास खण्ड
7.	मण्डी	सदर	नगवाई, टकोली तथा पनारसा

1	2	3	4
8. मण्डी	सराज	जन्महली तथा वाली चौकी	
9. शिमला	जून्वल-कोटखाई	समस्त विकास खण्ड	
10. शिमला	रोहडू	समस्त विकास खण्ड	

इस अधिसूचना में दिए गए निर्देशों का जो भी उल्लंघन करेगा उसके विरुद्ध हिमाचल प्रदेश कृषि कीट अधि एवं हानिकारक खरपतवार अधिनियम, 1969 की धारा 9(1) के अन्तर्गत कार्यवाही की जायेगी।

राज सिंह राणा,
निदेशक

श्रम विभाग

अधिसूचना

दिनांक, 16 सितम्बर, 1981

सं० 8-20/80 श्रम—औद्योगिक विवाद अधिनियम, 1947 (1947 का अधिनियम सं० 14) की धारा 17 के अनुसरण में राज्यपाल, हिमाचल प्रदेश निम्नलिखित वर्गों के मध्य चल रहे विवादों पर प्रीजाइडिंग औफिसर लेबर कोर्ट, हिमाचल प्रदेश द्वारा दिये गये निम्नलिखित निर्णयों का जो सरकार को 4-6-81 को प्राप्त हुए हैं को प्रकाशित करने का सहर्ष आदेश देते हैं:—

1. Tirath Ram	vs. Dehra Friends Co-op. Society, Jawalamukhi.
2. Beant Singh and seven others	vs. Municipal Committee, Solan.
3. Shiv Ram	vs. -do-
4. Darshan Singh	vs. -do-
5. Dhiraj Singh	vs. -do-
6. Sangat Ram	vs. -do-
7. Jagat Ram	vs. -do-
8. Shri Krishna Nand	vs. -do-
9. Shri Rup Ram	vs. -do-

Before Shri H. D. Kainthla, Industrial Tribunal, State of Himachal Pradesh at Solan
Reference Petition No. 15/76

Shri Tirath Ram Shrama, ex-Accounts Clerk of Dehra Friends Co-operative Transport Society Limited, Dehra

.. Applicant.

Versus

Dehra Friends Co-operative Transport Society, Limited, Dehra.

.. Respondent.

REFERENCE UNDER SECTION 12 (5) OF THE INDUSTRIAL DISPUTE ACT

AWARD/JUDGMENT.—The applicant Shri Tirath Ram Sharma was working as Accounts Clerk with the respondent, Dehra Friends Co-operative Society Limited, Dehra, to be referred as "Respondent Society" hereinafter. He had joined the Respondent Society's service on 1-7-1968.

His services came to be terminated on 28-12-74 for misconduct of misappropriating Society money. He has questioned the property and legality of his service termination and raised an Industrial Dispute, giving rise to this reference case with the following term of reference:—

“Whether the termination of services of Shri Tirath Ram Sharma Ex-Accounts Clerk by the Dehra Friends Co-operative Transport Society Ltd., Dehra is justified and in order? If not what relief and exact amount of compensation Shri Tirath Ram is entitled to?

2. The above reference was made to this Labour Court by the Himachal Pradesh State Government *vide* notification No. 7-66/76-LEP-Shram, Simla-171002, the 19th June, 1976.

3. In pursuance to the above reference, the applicant Shri Tirath Ram Sharma was asked to put in his full particulars of the claim. Per application dated 18-9-76 he contended that he was put under suspension *w. e. f.* 1-7-74 on the alleged charges of suspected embezzlement. That on 28-8-74 a charge-sheet was served on him. He replied to the charge-sheet on 7-9-74 and denied the charges. That without any further proceedings the services were terminated by the Respondent Society against the provisions of law and principles of natural justice. So he claims re-instatement and compensation for illegal suspension from 26-6-74 till re-instatement amounting to Rs. 15,500 by way of arrear of salary, increment and bonus etc.

4. The Respondent Society in their written-statement contended that the dispute between the Society and its employees was within the jurisdiction of the Registrar, Co-operative Societies and the reference to the Labour Court was not maintainable. On merits it was stated that the applicant was appointed Accounts Clerk on purely temporary basis at a consolidated salary of Rs. 140 inclusive of allowances. The applicant is said to have been suspended because of the charges of embezzlement and dishonesty. The Managing Board of Society considered the reply of the applicant to the charge-sheet alongwith the documentary record available with the Society pertaining to the charges against the applicant on 28-12-74. The applicant was also given a hearing. Thereafter, the applicant's services were terminated for his misconduct which he could not rebut.

5. The following issues were framed to determine the controversy between the parties:—

- (1) Whether the order terminating the services of the petitioner by the respondent is unjustified? OPP.
- (2) In issue No. 1 is decided in favour of the petitioner, what amount as compensation he is entitled to recover? OPP.
- (3) Whether the petitioner is entitled to any other relief or benefit? OPP.
- (3A) Whether the jurisdiction of this court is barred under section 72 of the Co-operative Societies Act, 1968? OPR.
- (4) Relief.

FINDINGS ON THE ISSUES

The applicant as well as the Respondent Society have led evidence oral and documentary.

ISSUE NO. 1:

Ex. RD is copy of the resolutions of the Respondent Society Management Board, No. 6 to 8 dated 28-8-74 wherein three charges of misappropriation have been addressed to the applicant.

7. First charge is of Rs. 330 over-time allowance amount received wrongly and in excess. Second charge relates to misappropriation of the window cloth covers of Bus No. HPK 259. Third charge pertains to Rs. 55 misappropriated by the applicant on account of the pay of Shri Kehar

Singh Conductor charged from the Respondent Society for the days for which neither Shri Kehar Singh had worked nor he was paid the amount though it was drawn and received by the applicant.

8. Ex. R E is the reply of the applicant to the above charge-sheet Ex. R. D. His reply to the first charge is that he has received the amount of over-time allowance rightly for Rs. 450 according to voucher sanctioned by the President of the Respondent Society. So there was no question of embezzlement or fraud.

9. Regarding the second charge he denied that any bus window curtains were in his charge or that he misappropriated them.

10. In regard to the third charge his reply was that the pay of conductor Shri Kehar Singh in 1972 was correctly drawn according to the voucher for Rs. 385 which was paid by him to the conductor concerned.

11. No regular formal inquiry was held by the Respondent Management against the applicant regarding the aforesaid charges, though they had satisfied in their own way from the records and the reply of the applicant that the charges were established against him and accordingly terminated his services. As the Respondent Society had failed to conduct proper inquiry against the applicant so the findings given by the Respondent Society against the applicant in their informal domestic inquiry were not found legally valid. In such a situation, the Respondent Society had another opportunity, under law, to establish the charges before the Court in these proceedings of the reference. The law on this aspect of the matter is laid down in A.I.R. 1959 S.C. 1111 Phul-Bari Tea Estate v. Its Workmen, A.I.R. 1965, S.C. 1803 Workmen V. Motipur Sugar Factory, A.I.R. 1974 Supreme Court 696 East India Hotels v. Their Workmen and A.I.R. 1975 S.C. 1900 Co.-oper. Engineering Ltd. v. P. P. Mundhe.

12. The Respondent Society availed such an opportunity of leading evidence regarding the misconduct attributed to the applicant before this Court during this reference case proceedings.

13. The Executive Committee of the Respondent Society *vide* resolution No. 12, dated 23-3-69 copy Ex. RW2/B decided that the applicant may clear the pending work, by working two hours over-time daily for which he be paid compensation. Accordingly, after the clearance of the work the said committee again passed resolution No. 4 dated 28-5-70 that the applicant had worked as Accountant for six months and for that he may be paid Rs. 120 for having completed the accounts till then.

14. Thereafter, the applicant in March, 1973 when Shri Durga Dass, Accounts Clerk (RW2) was on leave prepared wrongly another bill per copy Ex. R. G. dated 20-3-73 for over-time work allowance of Rs. 330 after adjusting Rs. 120 previously received by him. Thus he prepared the bill for over time allowance for six months at the rate of Rs. 75 per month totalling Rs. 450 and on adjustment of Rs. 120 the balance bill amount payable was got passed for Rs. 330 and payment received by the applicant. This bill is prepared and signed by the applicant on the basis of resolution dated 23-3-69 (Ex. RW2/B). The payment of this bill is made to the applicant *vide* voucher Ex. RF-1 wherein the applicant had signed as accountant which now stands rubbed and scored off. The signature of Shri Durga Dass (RW2) mark Ex. RF-1/A thereon are not that of Shri Durga Dass (RW2) mark have been put by the way of interpolating most probably by the applicant who received benefit under the voucher. The Co-operative Society Department Auditor on checking, held this payment as illegal and made a note to this effect on the voucher Ex. RF-1, dated 20-3-73. Of course the applicant admits to have received this amount per signature on this voucher on the stamped receipt part.

From the evidence of Shri Durga Dass (RW2) Accounts Clerk of the Respondent Society read with resolution copy Ex. R. G and the voucher Ex. RF-1, it is made clear that the applicant prepared

his over-time allowance claim bill over again in addition to the amount of Rs. 120 received by him *vide* resolution Ex. RW2/A, dated 28-5-70. This resolution Ex. RW2/A had settled the entire compensation claim for six month's over-time work at Rs. 120. The bill Ex. RG was prepared wrongly on the basis of this resolution which no where authorised the President to pay over-time allowance at the rate of Rs. 75 p.m. for six months. The bill is admittedly prepared by the applicant and amount received on getting the bill sanctioned from President of the Respondent Society by the applicant. Here the applicant in order to have his over-time claim compensation amount assessed at Rs. 450 for six months, in the bill prepared by him per copy Ex. RG, deliberately misrepresented the decision of resolution dated 23-3-69, having authorised payment by Executive Committee at Rs. 450 instead Rs. 120, to the President of the Respondent Society for sanctioning the said bill. There was no authority for this payment given by the Executive Committee of the Respondent Society. So this amount of Rs. 330 as over-time allowance was managed by the applicant in his own favour dishonestly by misrepresenting the facts. This amounts to misappropriation of the respondent's money by its employee in illegal and unauthorised manner. So the misconduct on this court is proved.

16. Coming to Rs. 120 amount of bus window covers, Shri Durga Dass (RW2) Accounts Clerk stated that bus curtains and seat covers etc., of the bus were in the charge of "Adda Incharge" the applicant. Washerman's bill for washing curtains had come to him. Shri Om Parkash, Helper-cum-Munshi at Jawalamukhi had reported that curtains had not been received back by him in the bus after washing.

17. One Shri Om Prakash had reported that curtains of the bus had disappeared. But the said Shri Om Prakash was not examined. There is no satisfactory evidence that the applicant in his capacity as "Adda Incharge" Jawalamukhi had got the charge of curtains of the bus No. HPK 259. So this part of misappropriation of the bus window curtains is not established.

18. As regards the charge of mis-appropriation of Rs. 55 on account of the salary wrongly drawn in the name of Shri Kehar Singh, Conductor for the month of February, 1972 and not paid to him. Shri Kehar Singh reported the matter to the Respondent Society per his report copy Ex. RW4/2, dated 27-10-74. The original has also been placed on the record which is marked 'X'. Shri Kehar Singh has appeared as RW6. He has proved the report per copy Ex. RW4/2 in which he complained that in February, 1972 his work attendance was 16 days only but the applicant had prepared the bill voucher for 27 days work and got signed from him. Thus for 11 days Rs. 55 were charged in excess and misappropriated by the applicant and not paid to him. The copy of the Attendance Register Ex-RH-3 shows that Shri Kehar Singh's attendance was marked for 16 days only in February, 1972. But the payment made to him is per payment voucher Ex. RH, dated 10/16-5-72 for 27 days from 3-2-72 to 29-2-72 while per Attendance Register he is not marked present for 7th to 17th of February and neither for 1st to 3rd or from 28th. Per voucher Ex. RH Shri Kehar Singh was paid Rs. 385 after deducting Rs. 50 advance payment but Shri Kehar Singh stated that he was paid only Rs. 330 and shown payment for Rs. 385 that Rs. 55 were misappropriated by the applicant. Though Kehar Singh reported after about two years delay but the fact remains that the applicant did misappropriate Rs. 55 out of Shri Kehar Singh's salary which he wrongly showed for 27 days instead of 16 days. The applicant has failed to explain as to why Shri Kehar Singh should come forward to speak falsely against him. This part of the charge also stands proved.

19. The Respondent Society had terminated the services of the applicant *vide* resolution dated 28-12-74 copy Ex. R W 4/B on account of the above said three charges out of which two stand established before this Court on evidence on the record. Therefore, the misconduct having been proved in a major part against the applicant, it cannot be said that termination of applicants services is unjustified. I up-hold the termination of the applicant's services by the Respondent Society for the misconduct of over-charging, over time allowance of Rs. 330 wrongly and dishonestly and also drawing pay of Rs. 55 wrongly.

ISSUE No. 2:

20. In view of the findings on issue No. 1 this issue does not arise.

ISSUE No. 3:

21. This issued is also rendered redundant because applicant's termination has been held to be justified.

ISSUE No. 3-A:

22. This issue is already decided in favour of the applicant *vide* order dated 4-7-79 that the Labour Court had jurisdiction in the reference matter.

ISSUE No. 4:

RELIEF

23. The applicant is not entitled to any relief. However, I leave the parties to their respective costs incurred in this reference proceedings.

24. Thus I answer first part of the reference in the affirmative that the termination of services of Shri Tirath Ram Sharma *Ex-Accounts Clerk*, Dehra Friends Co-operative Transport Society, is justified and in order and he is not entitled to any compensation etc. relief.

The award/judgement has been dictated and announced today in the open Court. It may be communicated to the parties.

Dated Solan, the 17th May, 1981.

Sd/-
H. D. KAINTHLA,
*Industrial Tribunal,
State of Himachal Pradesh at Solan.*

**Before Shri H. D. Kainthla Presiding Officer, Labour Court, Himachal Pradesh at Solan
Case No. 37/1979**

Shri Beant Singh c/o Bedi Niwas, Deonghat, Saproon, Solan, Himachal Pradesh, . . *Applicant.*

Versus

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . *Respondent.*

Case No. 38/1979

Shri Shiv Ram c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . *Applicant.*

2. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . *Respondent.*

Case No. 39/1979

Shri Darshan Singh c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant.

3. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Case No. 40/1979

Shri Sangat Ram c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant.

4. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Case No. 41/1979

Shri Dhiraj Singh c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant

5. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Case No. 42/1979

Shri Krishna Nand c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant.

6. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Case No. 43/1979

Shri Jagat Singh c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant.

7. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Case No. 44/1979

Shri Rup Ram c/o Bedi Niwas, Deonghat, Saproon, Solan (Himachal Pradesh) . . Applicant.

8. *Versus*

Municipal Committee, Solan through its Secretary, Solan (Himachal Pradesh) . . Respondent.

Application under section 33-C (2) Industrial Dispute Act.

ORDER

Shri Beant Singh and seven other Fire Brigade Employees of the Municipal Committee, Solan have made claim petitions under section 33-C(2) of Industrial Dispute Act. These eight claim petitions have been consolidated for purposes of inquiry and trial by this court as common factual and legal questions are involved. They have laid claims on three counts, that is:—

(i) For the Summer & Winter Uniform on basis of Government Fire Brigade Employees of Simla.

(ii) Over-time duty of four hours daily, and

(iii) For Festival Holidays and other Holidays allowed to other Workmen of Municipal Committee, Solan.

2. They have made the claim for the period from 1-3-78 to 31-3-79. The claims of each individual applicant are as under:—

S. No.	Case No.	Applicant's Name	Uniform Allowance	Overtime allowance	Holiday allowance	Total
1.	37/79	Shri Beant Singh	650.00	6825.00	968.00	8443.00
2.	38/79	Shri Shiv Ram	650.00	5635.00	814.00	7099.00
3.	39/79	Shri Darshan Singh	650.00	5623.20	814.00	7087.20
4.	40/79	Shri Sangat Ram	650.00	5339.20	792.00	6781.20
5.	41/79	Shri Dhiraj Singh	650.00	5339.20	792.00	6781.00
6.	42/79	Shri Krishna Nand	650.00	5339.20	792.00	6781.00
7.	43/79	Shri Jagat Singh	650.00	5339.20	792.00	6781.00
8.	44/79	Shri Rup Ram	650.00	5339.20	792.00	6781.00

3. The applicants have alleged that the Municipal Committee, Solan decided in 1978 to give service benefits and facilities on the pattern of Government Fire Brigade employees and that eight hours daily duty may be taken from the employees.

4. The Respondent Municipal Committee, Solan contested the claims of the applicants. They contended that the matter of uniform claim stand already rejected by this Court in previous similar application and the matter is resjudicata. That, however, uniform have been supplied to the applicants at different intervals. Summer Uniform were supplied to 3-7-1978 and on 19-4-1979 while Winter Uniforms on 28-4-1977.

5. In regard to working hours it is alleged that the decision of eight hours daily was for negotiation purposes and not for implementation. That no right or settlement regarding eight hours daily duty or for the over-time allowance payment was arrived at between the parties. Similarly the claim for compensation in regard to National and festival holiday had been dismissed previously by this Court and no new right has arisen.

6. The following issues were framed to settle the matter in controversy between the parties:—

- (1) Whether the applicant has not been supplied Summer and Winter Uniforms with effect from 1-3-1978 to 31-3-1979? On the pattern of Simla Fire Brigade? OPP
- (2) Whether the applicant is entitled to uniforms by Simla Fire-Brigade pattern? OPP.
- (3) Whether the matter of right to claim uniforms by the applicant is barred by resjudicata? OPR.
- (4) Whether over-time work has been obtained from the applicant despite the Municipal Committee decision in the year, 1978, if so for how many hours? OPP.
- (5) Whether in the year, 1978, the Municipal Committee decided that no over-time work will be obtained OPP.
- (6) Whether the decision of the Municipal Committee regarding over-time work was only for the purpose of negotiations with the Union and not for direct implementation? OPR.
- (7) Whether the applicant is entitled to double wages for National and Gazetted holidays from 1-3-1978 to 31-3-1979, if so what is the number of such holidays? OPP
- (8) Whether the applicant has got claim benefit of double wages for National and Gazetted holiday? OPP.
Relief.

FINDINGS ON THE ISSUES

Issues No. 1 to 3

7. These three issues over the same matter of claim regarding uniforms.

8. The respondent Municipal Committee, Solan per resolution No. 15/78 item 'KA' vide copy Ex.A-1, dated 2-8-1978 decided that the Fire Brigade Employees' pay scales and other admissible benefits be revised on the basis as are being given by the State Government to the employees of State Fire Services. Accordingly the benefit of uniform being provided to the applicants on the pattern of Government Fire Brigade Employees was accepted and awarded by the Respondent Committee to the applicants. So an existing right accrued to them to claim the uniform on the aforesaid pattern.

9. But Shri Beant Singh Bedi (AW-4) the representative applicant in these cases appearing as a witness, could not deny the facts that the Respondent Committee supplied Summer and Winter Uniforms to the applicants in July, 1978, April, 1979 and April, 1977 respectively. He failed to give the details of the uniform articles not supplied to them according to the pattern of the Government Fire Brigade Employees, so that the computation of the money value of such uniform items could be done. The claim regarding the uniform remains un-established. There is no basis with this Court to award the amount claimed by the applicants by way of compensation for the uniform items not supplied to them. The claim has to be rejected. In fact Shri Vatrana the Authorised Representative of the applicants appearing for them in Court, conceded that this claim regarding uniforms is not pressed by the applicants. These issues are held against the applicants.

Issues No. 4 to 6

10. These issues relate to the over-time work claim of the applicants. The Respondent Committee is getting duty for 12 hours a day from the applicants, in two shifts covering the 24 hours daily. Per item No. 2, Resolution No. 44/78, dated 8-6-1978 (Copy Ex.A-2) the Respondent Committee had decided that the Fire Brigade employees duty hours be fixed 8 hours daily and necessary arrangements in that behalf may be made.

11. In face of the above clear and categorical decision of the Municipal Committee, regarding working hours of the applicants, it does not lie in their mouth now to say that it was meant for negotiation purposes and not for implementation. The resolution of the Committee has created a right in favour of the applicants in regard to their duty hours which is otherwise also in consonance with the duty hours of the Government Fire Brigade and other working employees. The decision is further confirmed as resolution No. 15/78 item 'KA' (Ex.A1), in committee meeting dated 2-8-1978 that salary and benefits according to Government Fire Brigade norms shall be available to their Fire Brigade employees.

12. But the question arises as to what compensation amount the applicants are entitled to against the four hours extraduty they have to attend daily for the present. There was such a system of 12 hours working duty for Government Fire Brigade Employees at Simla prior to 1978 when 8 hours working was enforced per Government order dated 15-6-1978 vide copy Ex.AW.3/1 for the Government Fire Brigades. Prior to 1978 the employees of the Government Fire Brigade at Simla attending 12 hours daily duty were paid extra allowance of Rs. 10 per month for firemen, Rs. 15 for drivers and Head Firemen.

13. According to the Respondent Committee Resolution No. 44/78, dated 8-6-1978 item No. 2 (ES.A2) and resolution No. 15/78, dated 2-8-1978 item "KA" (Ex.A1) the Committee is liable to pay this amount of extra allowance at the rate of Rs. 10 for Firemen and Rs. 15 for Drivers and Head Firemen with effect from 8-6-1978. The applicants shall be paid this allowance accordingly by the Respondent Committee for over-time working for four hours daily by them till 8 hours duty roster is enforced which should be introduced as early as possible.

Issues No. 7 & 8

14. The applicants have calculated their money claims, for denial of the benefit of National and Gazetted holidays, at the rate of double wages. But they have neither been able to show how many such holidays were denied to them for 1-3-1978 to 31-3-1979, nor the basis for their double wages claim.

15. According to resolution No. 15/78, dated 2-8-1978 item 'KA' (EXA1) the applicants are entitled to the benefit of such holidays in accordance with the system followed for the Government Fire Brigade employees. The said system is as stated by Shri A.S. Verma, Divisional Fire Officer, Simla (AW3) that the number of gazetted holidays according to the Government Schedule are credited to the casual leave account of Fire Brigade employees which can be availed by them as casual leave during the year. According to this system in 1980 the total casual leave days due to them were 26 *vide* copy Ex. P.3 an order of the State Fire Brigade Department dated 13-3-1979.

16. Therefore, the applicants on the basis of the aforesaid resolution 'KA' of the Respondent Committee can get the benefit of Gazetted holidays available to the State Government Employees by having them added to their casual leave days in a year and avail them as such. Nor right for money claim for denial of such holidays as such can be claimed by the applicants much less in an application under section 33-C(2) of Industrial Dispute Act. In case of denial of such a benefit of availing holidays in the aforesaid manner, the applicants may perhaps have such a right. No such case at the present moment is made by the applicants before this Court. So these issues go against the applicants.

RELIEF

17. The applicants shall get the allowance at the rate of Rs. 10 per month for Firemen, and at the rate of Rs. 15 per month in case of Head Firemen and Drivers, for doing work for 12 hours daily from 8-6-1978 onward. The Respondent Committee is directed to pay the applicants this extra duty allowance accordingly, Announced.

*Dated Solan:
the 17th May, 1981.*

H. D. KAINTHLA,
*Presiding Officer, Labour Court,
for State of Himachal Pradesh.*

आदेश द्वारा,
सचिव।

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-171004, 25th September, 1981

No. 1-38/81-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, 'The Himachal Pradesh Ex-Servicemen Corporation (First Amendment) Bill, 1981 (Bill No. 17 of 1981)' after having been introduced in the Himachal Pradesh Vidhan Sabha on the 25th September, 1981, is hereby published in the Gazette.

RAJ KUMAR MAHAJAN,
Secretary.

Bill No. 17 of 1981.

**THE HIMACHAL PRADESH EX-SERVICEMEN CORPORATION
(FIRST AMENDMENT) BILL, 1981**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Ex-servicemen Corporation Act, 1979 (Act No. 8 of 1980).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh *Ex-servicemen Corporation (First Amendment) Act, 1981.*

Short title
and com-
mencement.

(2) It shall and shall be deemed to have come into force on the 25th day of August, 1981.

2. In section 2 of the Himachal Pradesh *Ex-servicemen Corporation Act, 1979* (hereinafter called the principal Act),—

Amendment
of section 2.

(a) in clause (d) for the word “Chairman” wherever it occurs the words “Chairman-cum-Managing Director” shall be substituted; and

(b) clause (i) shall be omitted.

3. In sub-section (2) of section 6 of the principal Act in between the words “question of policy” and “as may be given” the words “and management” shall be inserted.

Amendment
of section 6.

4. In section 7 of the principal Act,—

Amendment
of section 7.

(a) in sub-section (1),—

(i) for the word “Chairman”. the words “Chairman-cum-Managing Director” shall be substituted;

(ii) the sign “,” and words “the Managing Director” shall be omitted; and

(iii) for clause (e) the following clause (e) shall be substituted, namely:—

“(e) five other Directors to be nominated by the State Government not less than three of whom may be *ex-servicemen.*”;

(b) for the existing sub-sections (2) and (3) the following sub-sections shall be substituted, namely:—

“(2) The Chairman-cum-Managing Director shall be a person who is an *ex-serviceman* and was holding a Class I post while in service. The Vice-Chairman shall be a

non-official person. The Chairman-cum-Managing Director and the Vice-Chairman may be appointed by the Government on such terms and conditions as may be prescribed.

(3) The terms and conditions of nominated Directors referred to in clause (e) of sub-section (1) shall be such as may be prescribed.”;

(c) the existing sub-section (4) shall be omitted;

(d) in sub-section (5) for the word “Chairman” the words “Chairman-cum-Managing Director” shall be substituted and the sign “,” and the words “the Managing Director” shall be omitted; and

(e) at the end the following sub-section (6) shall be added, namely:
“(6) The Board shall have a Secretary-cum-Chief Accounts Officer who shall be appointed by the Government on such terms and conditions as the Government may prescribe.”

Amendment
of section 9.

5. In section 9 of the principal Act for the existing words “Managing Director” the words “Chairman-cum-Managing Director” shall be substituted.

Insertion of
section 9-A.

6. After the existing section 9 of the principal Act the following new section 9-A, alongwith its heading, shall be inserted, namely:—

“9-A. *Duties of the Vice-Chairman.*—The Vice-Chairman shall discharge such functions as the Board may assign to him in addition to the duties assigned to him under the Act.”

Amendment
of section
12.

7. In section 12 of the principal Act for the word “Chairman”, wherever it occurs, the words “Chairman-cum Managing Director” shall be substituted.

Amendment
of sections
13 and 14.

8. In sections 13 and 14 of the principal Act the word “Chairman”, wherever it occurs, the words “Chairman-cum-Managing Director” shall be substituted and the words “or the Managing Director”, wherever these occur, shall be omitted.

Amendment
of section
20.

9. In section 20 of the principal Act for the words “Managing Director”, wherever these occur, the words “Chairman-cum-Managing Director” shall be substituted.

Amendment
of section
28.

10. In section 28 of the principal Act for the word “Chairman”, the words “Chairman-cum-Managing Director” shall be substituted and the words and sign “the Managing Director”, shall be omitted.

Amendment
of section
32.

11. In clause (a) of sub-section (2) of section 32 of the principal Act for the word and sign “Chairman,” the words “Chairman-cum-Managing Director and” shall be substituted and the words “and the Managing Director” shall be omitted.

Amendment
of section
33.

12. In sub-section (2) of section 33 of the principal Act,—

(i) for the existing clause (a) the following clause (a) shall be substituted, namely:—

“(a) the terms and conditions of appointment, including salary

and allowances of the Chairman-cum-Managing Director, the Vice-Chairman and the Secretary-cum-Chief Accounts Officer;";

(ii) in clause (b) the sign "," and the words "including salary and allowances" occurring in between the words "appointment" and "of the Directors" shall be omitted;

(iii) in clause (c) for the word "Chairman" the words "Chairman-cum-Managing Director" shall be substituted and the words "or the Managing Director" shall be omitted; and

(iv) in clause (e) in between the words "certificate" and "shall" the words and figures "under section 20" shall be inserted and for the words "Managing Director" the words "Chairman-cum-Managing Director" shall be substituted.

5 of 1981 13. (1) The Himachal Pradesh Ex-servicemen Corporation (Amendment) Ordinance, 1981 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken or purporting to have been done or taken in exercise of any power conferred by or under the said Ordinance, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act, as if this Act was in force on the day when such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

At present the Himachal Pradesh *Ex-servicemen* Corporation Act, 1979 provides for the appointment of a whole time Managing Director who shall be its Chief Executive Officer and responsible for operational management of the Corporation and the implementation of its policies. The Act also provides for a separate Chairman to preside over the meetings of the Board of Directors of the Corporation on such terms and conditions as Government may prescribe. With a view to effect economy in expenditure involved in maintaining two separate offices, as also to provide greater administrative flexibility, it was considered desirable to club the office of the Managing Director with that of the Chairman and designate the functionary as Chairman-cum-Managing Director. It was also considered necessary to provide for an office of Secretary-cum-Chief Accounts Officer to assist the Chairman-cum-Managing Director in carrying out functions of the Corporation.

Since the State Legislature was not in session and there existed circumstances to the satisfaction of the Governor, Himachal Pradesh, rendering it necessary for him to take immediate action under clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh promulgated the Himachal Pradesh *Ex-servicemen* Corporation (Amendment) Ordinance, 1981 (5 of 1981) on the 25th August, 1981. The aforesaid Ordinance is required to be replaced by a regular enactment.

With the merger of the office of the Managing Director with the office of the Chairman, strength of the Board would decrease from 11 to 10. Accordingly, it has further been decided to increase the number of nominated members from four to five. To ensure that *ex-servicemen* get due representation in the category of nominated members, it is proposed to prescribe that not less than three of the nominated members shall be *Ex-servicemen*.

Further sub-section (4) of section 7 of Himachal Pradesh *Ex-servicemen* Corporation Act, 1979 provides for a mandatory tenure of two years to the Chairman-cum-Managing Director, Vice-Chairman, Managing Director and Directors. Since the concept of Chairman-cum-Managing Director has not so far been given a trial in the State, although it is operational in majority of Central Public Sector Undertakings, it is considered administratively desirable not to give a fixed tenure to the incumbent in the initial stages but to evolve norms of tenure in due course on the basis of experience. Further more, sub-section (2) of section 7 of Himachal Pradesh *Ex-servicemen* Corporation Act, 1979 already provides that the terms and conditions of appointment of the Chairman shall be such as may be prescribed by the Government. A further provision in the Act providing for a fixed tenure is also not necessary in view of this sub-section. For these reasons it is now proposed to delete sub-section (4) of section 7 of the principal Act.

This Bill seeks to replace the aforesaid Ordinance with modifications.

RAM LALL,
Chief Minister.

SIMLA :

The 24th September, 1981.

FINANCIAL MEMORANDUM

Section 10 of the principal Act provides for the appointment of such officers and employees by the Board as it may consider necessary for the efficient performance of the functions of the Corporation and for determining, with the prior approval of the Government, the terms and conditions of their service. It has, however, been considered more appropriate to have a Secretary-cum-Chief Accounts Officer for the Corporation which provision has been made by *vide* sub-clause (e) of clause 4 of the Bill. This sub-clause provides for the appointment of the officer by the Government on such terms and conditions as the State Government may prescribe. The expenditure involved, which cannot be quantified exactly, will be debited to the *Ex-servicemen* Corporation Fund.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill, which seeks to amend section 33 of the principal Act, empowers the State Government to frame rules in respect of the terms and conditions of appointment of the Secretary-cum-Chief Accounts Officer. The rules as and when framed shall, after these are made, be laid before the Legislative Assembly. This delegation is essential and normal in character.

STATEMENT OF CIRCUMSTANCES NECESSITATING THE MODIFICATIONS IN THE HIMACHAL PRADESH ORDINANCE NO. 5 OF 1981

With the merger of the office of the Managing Director with the office of the Chairman, strength of the Board would decrease from 11 to 10. Accordingly, it has been decided to increase the number of nominated members from four to five. To ensure that *ex-servicemen* get due representation in the category of nominated members, it has further been decided to prescribe that not less than three of the nominated members shall be *ex-servicemen*. Further sub-section (4) of section 7 of Himachal Pradesh *Ex-servicemen* Corporation Act, 1979 provides for a mandatory tenure of two years to the Chairman-cum-Managing Director, Vice-Chairman, Managing Director and Directors. Since the concept of Chairman-cum-Managing Director has not so far been given a trial in the State, although it is operational in majority of Central Public Sector Undertakings, it is considered administratively desirable not to give a fixed tenure to the incumbent in the initial stages but to evolve norms of tenure in due course on the basis of experience. Further more, sub-section (2) of section 7 of Himachal Pradesh *Ex-servicemen* Corporation Act, 1979 already provides that the terms and conditions of appointment of the Chairman shall be such as may be prescribed by the Government. A further provision in the Act providing for a fixed tenure is also not necessary in view of this sub-section. For these reasons it has been decided to delete sub-section (4) of section 7 of the principal Act. This has necessitated the amendments in clause 4 of the Bill, which seeks to replace the Ordinance.

GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION

Simla-171002, the 18th September, 1981

GAD (A) F (4) 27/80.—In pursuance of clause 3 (2) of the Himachal Pradesh Ex-Servicemen Corporation (Amendment) Ordinance, 1981, the Governor, Himachal Pradesh is pleased to appoint Brig. D. S. Katoch (Retd.), as Chairman-cum-Managing Director of the Himachal Pradesh Ex-Servicemen Corporation with effect from 25th August, 1981. The terms and conditions of appointment will be decided later on.

K. C. PANDEYA,
Chief Secretary.

PANCHAYATI RAJ DEPARTMENT

ORDER

Simla-2, the 3rd September, 1981

No. PCH-HA (5)-C (15)-313/81.—In exercise of the powers vested in me under section 151 (1) (a) of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1968) read with Rule 146 of the Himachal Pradesh Panchayati Raj General Financial, Budget Accounts, Audit, Taxation Service and Allowances Rules, 1975, I, C. D. Parsheera, Director of Panchayati Raj, do hereby authorise the District Panchayat Officers, District Audit Officers and Auditors of this Department to have access to all the books, proceedings and records of the Panchayat Samitis in the entire State and to inspect any immoveable property occupied by, or any work in progress under the orders of any institution controlled by them.

C. D. PARSHEERA,
Director.